

**EXHIBIT "A" – Motion for Authority to Retain  
Investment Banker**

as of July 27, 1999

J. Michael Jenkins  
Chairman and Chief Executive Officer  
Boston Chicken, Inc.  
14123 Denver West Parkway  
P.O. Box 4086  
Golden, CO 80401-4086

This letter agreement (the "Agreement") confirms the understanding and agreement between Lazard Frères & Co. LLC ("Lazard") and Boston Chicken, Inc., debtor and debtor in possession ("Boston Chicken" or the "Company").

*Background:*

- A. On October 5, 1998, the Company and its Boston Market-related subsidiaries filed voluntary petitions under Chapter 11 of the Bankruptcy Code (the "Bankruptcy Proceedings").
- B. The Company and BT Alex. Brown Incorporated ("BTAB") are parties to that certain engagement letter, dated February 10, 1999 (the "BTAB Engagement Letter"). By order dated February 24, 1999, the court in the Bankruptcy Proceedings, approved the interim retention of BTAB as the Company's sole and exclusive financial advisor in accordance with and pursuant to the terms of the BTAB Engagement Letter. On April 5, 1999, the court issued a Second Order on Debtors' Motion for Authority to Retain Financial Advisor which extended its earlier approval of the interim retention to June 30, 1999 and which further provided that, if BTAB's impending merger with Deutsche Bank AG was completed by such date, then the retention of BTAB would automatically become final. Such merger was timely concluded.
- C. The services provided to the Company by BTAB pursuant to the BTAB Engagement Letter were provided primarily by Barry W. Ridings, a former managing director of BTAB, and his team. Mr. Ridings and his team have recently left BTAB and have joined Lazard. The Company desires to continue its association with Mr. Ridings and his team and, therefore, have notified BTAB of the termination of the BTAB Engagement Letter and desire to retain Lazard in its stead.
- D. Lazard has advised the Company that BTAB and Lazard have come to a mutual and binding understanding with respect to the allocation, if any, among them, of any fees paid by and payable under the BTAB Engagement Letter and that BTAB has released any claim it has to any further payments under the BTAB Engagement Letter and to any claim it might have to receive any compensation which the Company will become obligated to pay to Lazard

hereunder. Lazard agrees to hold the Company harmless from and indemnify the Company for any claims asserted by BTAB for fees and expenses under the BTAB Engagement Letter following the termination thereof.

Assignment Scope:

1. Subject to the issuance of an order in the Bankruptcy Proceedings approving such retention, the Company hereby retains Lazard under Sections 327(a) and 328(a) of the Bankruptcy Code as sole and exclusive investment banker to provide the Company with general restructuring advice on the terms and conditions set forth herein. The Company currently has approximately \$221 million of Master Lease obligations, \$54 million of Revolving Credit debt and \$70 million in a Debtor-in-Possession Facility (the "Existing Senior Debt Obligations"). Boston Chicken, Inc. also has approximately \$130 million of Convertible Subordinated Debentures due February 1, 2004, \$287 million of Convertible Subordinated Debentures due May 1, 2004 and \$210 million of Liquid Yield Option Notes due June 1, 2015 (the "Existing Subordinated Debt Obligations" together with the "Existing Senior Debt Obligations", the "Existing Debt Obligations"). As used in this Agreement, the term "Restructuring" shall mean, collectively, any restructuring, reorganization (whether or not pursuant to Chapter 11 of the United States Bankruptcy Code) and/or recapitalization of the Company that is achieved, without limitation, through a solicitation of waivers and consents, rescheduling of debt maturities, change in interest rates, repurchase, settlement or forgiveness of debt, conversion of debt into equity, an exchange offer involving new securities, issuance of new securities, sale or disposition of assets, sale of debt or equity securities, or other similar transaction or series of transactions.

Restructuring Services:

2. Lazard agrees, in consideration of the compensation provided in Section 3 below, to perform such of the following investment banking services as the Company\* may reasonably request, including:

- (a) A review and analysis of the Company's business, operations and financial projections, including the development of a business plan and financial foundation for a reorganization plan or plans with the results communicated to the Company in writing and/or orally;
- (b) Evaluating the Company's debt capacity in light of its projected cash flows;
- (c) Assisting in the determination of an appropriate capital structure for the Company;
- (d) Determining a range of values for the Company on a going concern basis;

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\* The services described herein pertain to and include the Company and all of its subsidiaries which are debtors in the Bankruptcy Proceedings.

- (e) Advising the Company on tactics and strategies for negotiating with the holders of the Existing Debt Obligations (the "Lenders") and other shareholders;
- (f) Rendering financial advice to the Company and participating in meetings or negotiations with the Lenders in connection with any restructuring, modification or refinancing of the Company's Existing Debt Obligations;
- (g) Advising the Company on the timing, nature, and terms of new securities, other consideration or other inducements to be offered pursuant to the Restructuring;
- (h) Advising and assisting the Company in evaluating potential capital markets transactions, including public or private debt or equity offerings (a "Financing Transaction") by the Company, and, on behalf of the Company, evaluating and contacting potential sources of capital as the Company may designate and assisting the Company in negotiating such a Financing Transaction;
- (i) Assisting the Company in preparing documentation required in connection with the Restructuring of the Existing Debt Obligations and any plan of reorganization;
- (j) Assisting the Company in identifying and evaluating candidates for a potential Business Combination, advising the Company in connection with negotiations and aiding in the consummation of a Business Combination<sup>1</sup> including the undertaking of any appropriate financial analysis and preparation of a fairness opinion in connection therewith;
- (k) Advising and attending meetings of the Company's Board of Directors and its committees;
- (l) Providing testimony, as necessary, in any proceeding before the Bankruptcy Court;
- (m) Providing the Company with other appropriate general restructuring advice;

(1) As used in this letter, the term "Business Combination" means any transaction or series of transactions involving (a) an acquisition, merger, consolidation, or other business combination pursuant to which the business or assets of the Company are combined with another company or any of its subsidiaries; (b) the acquisition, directly or indirectly, by a buyer (which term shall include a "group" of persons as defined in Section 13(d) of the Securities Exchange Act of 1934, as amended), of equity interests or options, or any combination thereof constituting a majority of the then outstanding stock of the Company or possessing a majority of the then outstanding voting power of the Company (except as may occur as a result of the Restructuring); (c) any

similar purchase or other acquisition by a buyer of significant assets of the Company or (d) the formation of a joint venture or partnership with the Company or direct investment in the Company for the purpose of effecting a transfer of a controlling or significant minority interest in the Company to an independent third party.

Fees:

3. As consideration for the services to be provided, the Company shall pay Lazard certain fees as follows:

- (a) A monthly fee of \$150,000 per month for the period commencing from the date specified in any Order of the Bankruptcy Court approving the retention of Lazard (which date may be retroactive) (the "Order Date"), payable monthly in accordance with the Order Establishing Interim Fee Application and Expense Reimbursement Procedures until the earlier of the completion of the Restructuring or the termination of Lazard's engagement pursuant to paragraph 9 (it being understood that such Monthly Fees shall be subject to a maximum holdback of 20% if required by the Court pursuant to the Administrative Order and which holdback will be payable to Lazard as soon as permitted by the Court);
- (b) A cash fee based on the Aggregate Consideration calculated as set forth in Schedule I hereto with respect to any Business Combination;
- (c) In addition to any fees that may be payable to Lazard, the Company shall promptly reimburse Lazard for all: (i) reasonable out-of pocket expenses (including travel and lodging, data processing and communications charges, courier services and other appropriate expenditures) and (ii) other reasonable fees and expenses, including expenses of counsel, if any, to the extent described in the Addendum A; and
- (d) As part of the compensation payable to Lazard hereunder, the Company agrees to the indemnification and contribution provisions (the "Indemnification Provisions") attached to this Agreement as Addendum A and incorporated herein in their entirety.

Other:

4. No fee payable to any other person, by you or any other party, shall reduce or otherwise affect any fee payable hereunder to us; provided, however, that any fees payable by Company to Lazard hereunder shall be reduced by any amounts which the Company may be or become obligated to pay to BTAB pursuant to and following the termination of the BTAB Engagement Letter.

5. In performing its services pursuant to this Agreement, including in connection with any valuation of the Company, Lazard shall be entitled to rely upon information furnished to it by the Company or that is publicly available, may assume the accuracy and completeness of such

information and shall not assume any responsibility for independent verification of any such information.

6. In performing its services pursuant to this Agreement, Lazard is not assuming any responsibility for the Company's decision to pursue (or not to pursue) any business strategy or to effect (or not to effect) any Restructuring or other transaction. Lazard shall not have any obligation or responsibility to provide "crisis management" for or business consultant services to the Company, and shall have no responsibility for designing or implementing operating, organizational, administrative, cash management or liquidity improvements.

7. Simultaneously herewith, the parties hereto are entering into an indemnification letter (the "Indemnification Letter") in the form attached hereto. The Indemnification Letter shall survive any termination or expiration of this Agreement.

8. In order to coordinate our efforts on behalf of the Company during the period of our engagement hereunder, in the event the Company receives an inquiry concerning any potential Business Combination, the Company will promptly inform Lazard of such inquiry so that we can assess such inquiry and assist in any resulting negotiations. In the event that Lazard receives an inquiry concerning any such type of transaction, we will promptly inform the Company of such inquiry.

9. Our engagement hereunder may be terminated by you or us at any time without liability or continuing obligation to you or us, except that following such termination and any expiration of this agreement (a) we shall remain entitled to any fees accrued pursuant to paragraph 3 but not yet paid prior to such termination or expiration, as the case may be, and to reimbursement of expenses incurred prior to such termination or expiration, as the case may be, and (b) in the case of termination by the Company and any expiration of this agreement, we shall remain entitled to full payment of all fees contemplated by paragraph 3(b) hereof in respect to any transaction announced or resulting from negotiations commenced during the period from the date hereof until 12 months following such termination or expiration, as the case may be if such transaction is with a party with whom we initiated contact, including execution of a confidentiality agreement regarding the Company.

10. The Company recognizes that Lazard has been engaged only by the Company for services to be performed for it and certain of its subsidiaries and that the Company's engagement of Lazard is not deemed to be on behalf of and is not intended to confer rights upon any shareholder, partner or other owner of the Company or its subsidiaries, any creditor, lender or any other person not a party hereto as against Lazard or any of its affiliates or any of their respective directors, officers, agents, employees or representatives. Unless otherwise expressly agreed, no one other than the Company is authorized to rely upon the Company's engagement of Lazard or any statements, advice, opinions or conduct by Lazard. Without limiting the foregoing, any opinions or advice rendered to the Company's Board of Directors or management in the course of the Company's engagement of Lazard are for the purpose of assisting the Board or management, as the case may be, in evaluating the Restructuring and do not constitute a recommendation to any stakeholder of the Company that such stakeholder might or should take in connection with the Restructuring. Lazard's role herein is that of an independent contractor;

nothing herein is intended to create or shall be construed as creating a fiduciary relationship between the Company and Lazard.

11. Lazard agrees that from the date hereof, it will: (a) maintain any information provided to it by the Company which the Company has identified, in writing, as confidential and/or proprietary ("Proprietary Information") in confidence and take all reasonable precautions to prevent the inadvertent exposure of Proprietary Information to unauthorized persons, (b) not disclose the Proprietary Information to any other party without the prior written permission of the Company, and (c) use the Proprietary Information only for the purpose of this engagement, or as the Company otherwise authorizes in writing. Proprietary Information shall include information previously provided to Lazard pursuant to and covered by the confidentiality obligations under the BTAB Engagement Letter, but shall not include any information disclosed by the Company that (i) is already known to Lazard at the time of its disclosure provided that such information is not known by Lazard to be subject to another confidentiality agreement with, or other obligation of secrecy to, the Company or another party, (ii) is or becomes publicly known without breach of any obligation of confidentiality of Lazard or any third party, (iii) is communicated to a third party with the express written consent of the Company, or (iv) is required to be disclosed under compulsion of law (in which case, Lazard will promptly advise the Company of any notification of such required disclosure and reasonably cooperate with the Company's efforts and actions to prevent such disclosure) or to Lazard's regulators or independent auditors.

12. In connection with the services to be provided hereunder, Lazard may employ the services of its affiliates and such affiliates may share with Lazard any Proprietary Information, provided that Lazard and such affiliates agree to hold any Proprietary Information confidential and to use it only as described in paragraph 11 of this letter. Any such affiliate so employed (and its directors, officers, employees, agents, attorneys, and affiliates) shall be entitled to be reimbursed for its costs and expenses on the same basis as Lazard. Any fees charged by such affiliate shall be at the responsibility of Lazard.

13. The provisions hereof shall inure to the benefits of and be binding upon the successors and assigns of the Company, Lazard and any other person entitled to indemnity under the Indemnification Letter.

14. This letter shall be governed by, and construed in accordance with, the laws of the State of New York without regard to the principle of conflicts of law, and may be amended, modified or supplemented only by written instrument by the parties hereto.

This agreement shall become effective upon a date specified in an order of the Bankruptcy Court entered in the Chapter 11 case of the Company, and shall thereupon supercede the agreement between BT Alex Brown Incorporated and the Company dated as of February 10, 1999, except with respect to Addendum A thereof.

If the foregoing letter is in accordance with your understanding of the terms of our engagement, please sign and return to us the enclosed duplicate hereof.

Very truly yours,

LAZARD FRERES & CO. LLC

By: \_\_\_\_\_  
Barry W. Ridings  
Managing Director

Accepted and Agreed to as of the date first written above.

Boston Chicken, Inc.

By: \_\_\_\_\_  
J. Michael Jenkins  
Chairman and Chief Executive Officer

Acknowledged, accepted and agreed to as of the date first written above.

Deutsche Bank Securities Inc.

By: \_\_\_\_\_

Title: \_\_\_\_\_

## SCHEDULE I

### Fees for M&A Transactions

The following table outlines Lazard's M&A fee schedule. Upon completion of any Business Combination, the Debtors agree to pay Lazard a fee as described in Schedule I, but in no event less than \$1.0 million. The total fee is calculated by multiplying the Incremental Fee percentage by the Aggregate Consideration.

<u>Aggregate Consideration</u>	<u>Incremental Fee %</u>
(\$ in millions)	
- Up to \$100	1.25%
- Greater than \$100 and less than \$200	0.75%
- Greater than \$200	0.25%

For purposes hereof, the term "Aggregate Consideration" means (x) the total amount of cash and the fair market value (on the date of payment) of all of the property paid or payable (including amounts paid into escrow) in connection with the Business Combination (or any related transaction), including amounts paid or payable in respect of convertible securities, preferred equity securities, warrants, stock appreciation rights, option or similar rights, whether or not vested, plus (y) the principal amount of all indebtedness for borrowed money of the Company and any subsidiary or, in case of the sale of assets, all indebtedness for borrowed money assumed by the third party. For purposes of calculating Aggregate Consideration, (i) all shares will be deemed transferred where a Business Combination is effected by the transfer of shares, (a) constituting 30% or more of the then outstanding equity securities of or equity interest in the Company, or (b) possessing 30% or more of the then outstanding voting power of the outstanding equity securities of or equity interest in the Company, and (ii) the value of securities (whether debt or equity) that are freely tradable in an established public market will be determined on the basis of the average closing price in such market for the 10 trading days prior to the closing of the Business Combination (the "Valuation Date"); and the value of securities that have no established public market or other property will be the fair market value of such securities or other property on such Valuation Date and any restricted stock (i.e., stock in a public company not freely tradeable) received shall be valued at 85% of the public market price of such stock. "Aggregate Consideration" shall also be deemed to include pension liabilities and guarantees of monies borrowed assumed by the acquiror. If the Aggregate Consideration is subject to increase by contingent payments related to future events, the portion of our fee relating thereto shall be calculated by us in good faith and paid to us upon consummation of a Business Combination.